

**RESOLUTION 21-149**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH,  
FLORIDA, APPROVING AN AGREEMENT WITH HOLLY WHITE  
FOR HER EMPLOYMENT AS ASSISTANT CITY MANAGER.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized to accept and deliver on behalf of the City that Agreement between the City and Holly J. White, relating to the terms and condition of her employment as Assistant City Manager, providing for an annual salary of \$145,500 together with benefits as more particularly described in the body of the Agreement, in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and Mayor and whose execution shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this 22<sup>nd</sup> day of April, 2021.

**CITY OF PANAMA CITY BEACH**

By: 

Mark Sheldon, Mayor

**ATTEST:**

  
Lynne Fasone, City Clerk

## EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (hereinafter referred to as "Agreement"), is by and between the City of Panama City Beach, Florida, a Florida municipal corporation (the "City"), and Holly J. White (sometimes "White" or "Assistant City Manager").

### WITNESSETH:

WHEREAS, Holly White became employed by the City on October 11, 2001, hired by then City Manager Richard Jackson, as an Assistant City Manager primarily focused on Finance, and has been continuously since that time remained employed by the City in that capacity; and

WHEREAS, City Manager Drew Whitman (the "City Manager" or "Whitman") has determined he needs an Assistant City Manager for the effective administration of the City, and as such drafted a new job description for the Assistant City Manager which is primarily focused on day-to-day administration and supervision of various departments not limited to finance; and

WHEREAS, on April 8, 2021, the City Council approved the Assistant City Manager job description created and presented by Whitman, which is attached as Exhibit A to this Agreement and incorporated herein; and

WHEREAS, pursuant to Section 3-6 of the City's Charter, Whitman has selected White to serve as Assistant City Manager; and

WHEREAS, White has agreed to serve as the Assistant City Manager, to execute the duties contemplated in the newly approved job description and under the terms and conditions set forth herein; and

WHEREAS, pursuant to Section 3-6 of the City's Charter, the City Council shall approve the terms and conditions of White's employment.

NOW, THEREFORE, in consideration of the mutual promises and benefits set forth in this Agreement, the parties agree as follows:

### **Section 1. Recitals.**

The forgoing recitals are true, complete, and not misleading with respect to the matters stated.

## **Section 2. Employment.**

A. The City shall continue to employ Holly J. White as an Assistant City Manager, under the terms established herein. The parties acknowledge and agree that White serves at the pleasure of the City Manager and no other.

B. White shall assume the duties of Assistant City Manager under the revised job description on April 29, 2021.

C. This Agreement shall remain in effect until terminated by White or by the City Manager as provided herein.

## **Section 3. Salary and Evaluation.**

A. For the performance of services pursuant to this Agreement, the City agrees to pay the Assistant City Manager an annual salary of \$145,500, payable in installments at the same time as other City employees are paid.

B. Should the general staff receive a cost of living increase, the Assistant City Manager will receive the same increase at the same time as the other staff.

C. The City Manager may also wish to increase said base salary or other benefits, or both, of the Assistant City Manager in such amounts and to such an extent as the City Council may authorize, on the basis of an annual performance evaluation of the Assistant City Manager.

## **Section 4. Duties and Obligations.**

A. The Assistant City Manager shall generally have the duties, responsibilities and powers set forth in the Job Description attached hereto as Exhibit A, together with any duties, responsibilities and powers assigned or delegated by the City Manager. Additionally, in the event of absence or disability of the City Manager, White shall have all the powers and duties imposed upon that office by the City Charter. White agrees to perform all duties and responsibilities faithfully, industriously, and to the best of her ability and in a professional and competent manner.

B. The Assistant City Manager shall remain in the exclusive employ of the City and shall devote all such time, attention, knowledge and skills necessary to faithfully perform her duties under this Agreement. She shall not serve or become employed by any other entity while this agreement is in effect unless approved in writing by the City Manager in accordance with Chapter 2, Article III, Division 2 of the City's Code of Ordinances. The Assistant City Manager may, however, engage in educational and professional activities upon receipt of approval by the City Manager, provided that such activities shall not interfere with her primary obligation to the City as its Assistant City Manager. The Assistant City Manager shall dedicate no less than an average of forty (40) hours per week in the performance of her duties hereunder.

C. In the event the Assistant City Manager shall serve on any appointed boards or elected boards of any professional organization, or serve on any committees related to her professional activities, in the event any monies are paid, or gifts received, by the Assistant City Manager related to such service, such money or property shall be paid over to or delivered to the City, unless otherwise provided by the City Council.

D. In the event the Assistant City Manager suffers or perceives to suffer any adverse employment action by the City Manager, sexual or other unlawful discrimination or hostile condition, or desires to disclose information protected by Section 112.3187, Florida Statutes, the Assistant City Manager is authorized and required to report the matter to the Mayor or any member of the City Council.

### **Section 5. Automobile Allowance and Communications Equipment**

A. The City shall continue to grant to White an automobile allowance of \$450 per month.

B. The City shall provide White with a city cell phone and pay the minimum monthly charge for service. White shall pay any additional charges incurred due to personal use by reimbursing the City promptly.

### **Section 6. Dues and Subscriptions**

The City agrees to pay the Assistant City Manager's professional dues for membership in one Florida local government managers' association, the American Institute of Certified Public Accountants, the Florida Institute of Certified Public Accountants, the Florida Government Finance Officers Association, licensure as a Certified Public Accountant with the Florida Department of Business and Professional Regulations, and such other professional dues and subscriptions on behalf of the Assistant City Manager as may be approved in the City's annual budget (on a line item basis) or otherwise as may be budgeted and authorized separately by the City Manager.

### **Section 7. Professional Development**

A. The City agrees to pay reasonable and customary travel and subsistence expenses for the Assistant City Manager's travel to and attendance at least one annual, professional conference of Florida local government managers. The City may choose to pay for the Assistant City Manager's attendance at other seminars, conferences, and committee meetings as the City Manager deems appropriate.

B. Given the depth and breadth of White's knowledge of the City's finances and her experience and familiarity with the substance and preparation of the City's financial statements prior to and during her employment with the City, the City specifically agrees to continue to pay for continuing educational units necessary for White to maintain her CPA license, up to 80 hours over a 2 year period.

**Section 8. Vacation and Sick Leave**

The Assistant City Manager shall earn vacation and sick leave at a rate equivalent with a department head with the maximum level of service. Accrued annual leave may be used at the time(s) she chooses in communication with the City Manager. The Assistant City Manager may not take leave greater than ten (10) consecutive working days without the consent of the City Manager. Accrual and pay-out of accumulated leave shall be governed by the same policies as those that govern other City employees.

**Section 9. Holidays**

The Assistant City Manager is entitled to the same paid holidays as the general City staff.

**Section 10. Health, Dental, Life and Disability Insurance**

The City agrees to provide, or make available, health insurance and other benefits to the Assistant City Manager on the same terms and conditions as are established from time to time for all City employees generally.

**Section 11. Retirement.**

The City and White acknowledge that White is currently participating in the General Employees' Retirement Fund's DROP Program and shall continue to participate under the terms and conditions as may from time to time be established for that Fund until her employment is terminated in accordance with Section 1 of this Agreement.

**Section 12. Discipline and Termination by the City Manager, Severance Pay**

A. The Assistant City Manager shall serve at the pleasure, and under the sole supervision, of the City Manager and shall not be a member of the City's Civil Service. The City Manager may terminate this Agreement and the Assistant City Manager's employment with the City at any time, for any reason or for no reason. In the event the City Manager exercises his authority to discipline, suspend or remove the Assistant City Manager from office, the Assistant City Manager may request a hearing before the City Council, by filing a written demand with the City Clerk within 2 days after receipt of notice of the adverse employment decision. The parties agree that the Council's sole inquiry shall be whether the City Manager's action was warranted or unwarranted. If found unwarranted, the City Manager's action will be deemed void and the Assistant City Manager will be immediately restored to her position. If found warranted, the City Manager's decision will be considered immediately effective.

B. Termination. Should the City Manager decide to terminate the services of the Assistant City Manager for convenience and without cause, then within ten (10) business days following such written determination, the City shall cause the Assistant City Manager to be paid any accrued and unpaid salary and benefits earned (including personal time off, holiday time and insurance but excluding such items and allowances as are used in conducting City business such as, but not limited to, the use of the City computer and the automobile and cell phone allowance) prior to the date of termination based on a forty (40) hour work week. Within forty-five (45) calendar days following the decision to terminate the Assistant City Manager's employment and upon request by the Assistant City Manager within the same time frame, the City shall cause the Assistant City Manager to be paid a lump sum severance pay equal to twenty (20) weeks of her salary as full and complete payment and satisfaction of any claims of the Assistant City Manager of whatsoever nature arising out of this Agreement or otherwise. As consideration for such payment, the Assistant City Manager shall, prior to receipt thereof, execute and deliver to the City a general release of the City, its Council members, officers, agents, and employees for all acts and actions (whether accrued or subsequently accruing) from the beginning of time until the date of release, said release to be prepared by the City Attorney.

C. In the event the City Manager or City Council, at any time during the employment term, reduces the salary or other benefits of the Assistant City Manager, as identified herein, in a greater percentage than an equivalent across-the-board reduction for all full-time City employees, or in the event the City allegedly refuses to comply with any other material provision of this Agreement benefiting the Assistant City Manager, the Assistant City Manager shall notify the Council in writing of the alleged violation. The Council shall have forty-five (45) days from such notice within which to cure the violation, otherwise, the Assistant City Manager may at her option, consider such violation as termination "without cause" as of the date of such alleged reduction or refusal, and the severance pay provision and other termination provisions contained herein shall become applicable at the annual salary and benefit level in effect prior to the reduction or refusal. This shall be the Assistant City Manager's sole remedy in the event of a breach or other violation by the City of a material covenant in this agreement, the Assistant City Manager acknowledging and agreeing that as an employee serving the public at the will and pleasure of the City Manager pursuant to the Charter and laws governing the City, she has no property or liberty interest in her employment with the City beyond the five month period of severance pay.

### **Section 13. Termination by the Assistant City Manager**

The Assistant City Manager may terminate this Agreement at any time by delivering to the City Manager a written notice of termination not later than ninety (90) days prior to the effective date of the termination. If the Assistant City Manager terminates this Agreement, then the provisions of Section 12, Paragraph B above (severance pay), shall not apply. If the Assistant City Manager voluntarily resigns pursuant to this Section, the City shall pay to the Assistant City Manager all accrued compensation due the Assistant City Manager up to the Assistant City Manager's final day of employment, including any accrued personal time off. The City shall have no further financial obligation

to White pursuant to this Agreement. This subsection shall not prevent White from collecting any money earned as a result of participation in the City's retirement program.

#### **Section 14. Disability**

If the Assistant City Manager becomes permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health (but excluding death), for a period of four consecutive weeks beyond any accrued leave and after the exhaustion of any leave authorized by the City's sick leave pool, the City Manager shall have the option to terminate this Agreement, subject to the severance pay provision outlined in Section 12, Paragraph B of this Agreement.

#### **Section 15. Indemnification.**

A. City shall defend, save harmless, and indemnify the Assistant City Manager against any action for any injury or damage suffered as a result of any act, event, or omission of action that the Assistant City Manager reasonably believes to be in the scope of her duties or function, unless she acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The City will compromise and settle any such claim or suit and pay the amount of any settlement or judgment rendered thereon. The City shall not be liable for the acts or omissions of the Assistant City Manager committed while acting outside the course and scope of her agreed duties or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. In such instance, the Assistant City Manager shall reimburse the City for any legal fees and expenses the City has incurred or otherwise paid, for or on her behalf, in connection with the charged conduct.

B. Said indemnification shall survive the termination of employment and the termination or expiration of this Agreement to provide protection for any such acts undertaken or committed in the Assistant City Manager's capacity as a City employee, regardless of whether the notice of claim or filing of a lawsuit occurs during or following employment with the City.

#### **Section 16. Bonding**

The City agrees to bear the full cost of any fidelity or other bonds required of the Assistant City Manager under any policy, regulation, ordinance or law.

#### **Section 17. Code of Ethics**

The "Code of Ethics" promulgated by International City/County Management Association is incorporated herein, and by this reference made a part hereof. Said "Code of Ethics" shall furnish principles to guide the Assistant City Manager's duties, responsibilities, conduct and actions as Assistant City Manager of the City.

## **Section 18. Attorney's Fees**

If any litigation is commenced between the parties concerning any provision of this Agreement or the rights and duties of any person in relation thereto, the party prevailing in such litigation will be entitled, in addition to such other relief as may be granted, to reasonable attorney's fees and expenses incurred in connection therewith, including appellate fees and expenses.

## **Section 19. General Terms and Condition**

A. If any provision, or any portion thereof, contained in this Agreement is held by a court of competent jurisdiction to be unconstitutional, illegal, invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

B. The waiver by either party of a breach of any provision of this Agreement, or the failure to demand strict compliance with any provision, shall not operate or be construed as a waiver of any subsequent breach of the same or any other provision, or as a modification of the same or any other provision.

C. This Agreement is a personal agreement between the City and the Assistant City Manager and may not be voluntarily assigned or involuntarily transferred.

D. This Agreement contains the entire Agreement of the parties. It may not be changed verbally, but only by an Agreement in writing signed by the parties.

E. Florida law shall govern this Agreement and any litigation that may arise from this Agreement, shall be filed and litigated in the 14<sup>th</sup> Judicial Circuit, in and for Bay County, Florida.

F. Upon Assistant City Manager's death, the City's obligations under this Agreement shall terminate except for the following which shall be for the benefit of the Assistant City Manager's personal representative or heirs:

1. Transfer of ownership of retirement funds, if any, to her designated beneficiaries;
2. Payment of accrued leave balances in accordance with this Agreement;
3. Payment of all outstanding hospitalization, medical and dental bills in accordance with City's insurance policies or plans; and
4. Payment of all life insurance benefits in accordance with the City's insurance policies or plans.



G. The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement and, accordingly, no court construing this Agreement shall construe it more strictly against one party than the other by reason of authorship, and every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning.

H. This Agreement may be executed in duplicate counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument. No term, condition or covenant of this Agreement shall be binding on either party until both parties have signed it.

I. The effective date of this Agreement shall be the last date it is executed by either of the parties to this Agreement.

Executed by the CITY this 22<sup>nd</sup> day of April, 2021.

CITY OF PANAMA CITY BEACH

By: [Signature]  
Mark Sheldon, Mayor

By: [Signature]  
Drew Whitman, City Manager

ATTEST:

[Signature]  
Lyrne Fasone, City Clerk

Executed by HOLLY J. WHITE this 26<sup>th</sup> day of April, 2021.

Witnesses:

[Signature]  
Signature

Jim Podak  
Print Name

[Signature]  
Signature

Mark Shaeffer  
Print Name

[Signature]  
Holly J. White

APPROVED AS TO LEGALITY AND FORM:

[Signature]  
Amy Myers, City Attorney  
J. Cole Davis